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APR 13 2004

**DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600**

In re Application of :
Mark Bresnan et al. : **DECISION ON PETITION**
Application No. 09/628,496 : **TO WITHDRAW THE**
Filed: July 28, 2000 : **HOLDING OF ABANDONMENT**
For: **METHOD AND SYSTEM FOR MAIL PIECE**
PRODUCTION UTILIZING A DATA CENTER
AND INTER-RELATED COMMUNICATION NETWORKS

This is in response to applicants' petition to withdraw the holding of abandonment filed January 12, 2004.

The petition is **DISMISSED**.

A review of the file record reveals that a non-final Office Action (hereinafter "Action") was mailed to applicants on September 20, 2002. Since a response was not received before the expiration of the six month statutory period for reply, the application was held abandoned, and a Notice to that effect was mailed on April 22, 2003.

Applicant's petition submits a statement that the Office action mailed September 20, 2002 was not received until April 2003 when the examiner faxed the applicant a copy.

There is a strong presumption that Office communication properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of December 20, 2002. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 OG 53 (November 16, 1993). The petitioner has failed to comply with requirement (3) indicated above.

The attorney's docket record attached to the petition shows responses due spanning the period of August 1, 2002 to February 1, 2003. The petition indicates that the applications are listed by attorney docket number and that this application was assigned the identifier "F-192". The report with the heading "Tuesday, October 01, 2002" (page 34) makes reference to attorney docket number F-192 with a due date of 20-Nov-2002 (Follow Up Amendment). This same notation appears on the "Wednesday, November 06, 2002" (page 35) report with a due date of 20-Dec-2002 and the "Tuesday, December 03, 2002" (page 31) report with a due date of 20-Jan-2003. These reports appear to contradict applicant's assertion that "I was unable to find a reference to the September 20, 2002, Patent Office Action for F-192." To the contrary, it appears that the Action was in fact received, otherwise the due dates for F-192 would not have had the date of the 20th associated with the due dates listed in the reports. Clarification as to this discrepancy is required.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Correspondence with respect to a Petition to Withdraw the Holding of Abandonment under *Delgar Inc. v. Schuyler* should be mailed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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SNM/mjz: 4/8/04